



6712-01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 43 and 63

[IB Docket Nos. 17-55 and 16-131, FCC 17-28]

Reporting Requirements for U.S. Providers of International Services; 2016 Biennial Review of Telecommunications Regulations

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this Notice of Proposed Rulemaking (NPRM), the Federal Communications Commission (Commission) seeks comment on the federal need for the international services reporting requirements set forth in the Commission's rules. Those reporting requirements are the annual Traffic and Revenue Reports and the Circuit Capacity Reports. The Commission believes these reports are no longer necessary in their current form. The Commission proposes to eliminate the annual Traffic and Revenue Reports altogether, and seeks comment on whether there are ways to further streamline the Circuit Capacity Reports.

DATES: Submit comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, and replies on or before **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments, identified by IB Docket Nos. 16-131 and 17-55, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Federal Communications Commission's ECFS Website: <http://fjallfoss.fcc.gov/ecfs2/>. Follow the instructions for submitting comments.
- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail to FCC504@fcc.gov, phone: 202-418-0530 (voice), tty: 202-418-0432.

For detailed instructions on submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: David Krech or Arthur Lechtman, Telecommunications and Analysis Division, International Bureau, FCC, (202) 418-1480 or via email to David.Krech@fcc.gov or Arthur.Lechtman@fcc.gov. On PRA matters, contact Cathy Williams, Office of the Managing Director, FCC, (202) 418-2918 or via email to Cathy.Williams@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking in IB Docket Nos. 16-131 and 17-55, adopted on March 23, 2017 and released on March 23, 2017. In the Notice of Proposed Rulemaking, the Commission seeks comment on the federal need for the international services reporting requirements set forth in Section 43.62 of the Commission's rules. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, S.W., Washington, D.C. 20554. The document also is available for download over the Internet at:

<https://www.fcc.gov/document/section-4362-nprm>.

Comment Filing Procedures

Pursuant to 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated above. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the Commission's ECFS website at <http://apps.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., S.W., Room TW-A325, Washington, D.C. 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, S.W., Washington D.C. 20554.

Synopsis

1. In this NPRM, the Commission seeks comment on the federal need for the international services reporting requirements set forth in section 43.62 of the Commission's rules. See Reporting Requirements for U.S. Providers of International Telecommunications Services; Amendment of part 43 of the Commission's Rules, IB Docket No. 04-112, Second Report and Order, 78 FR 15615 (2013). Those reporting requirements fall into two categories. First, the Traffic and Revenue Reports require providers of international telecommunications services to report annually their traffic and revenue for international voice services, international miscellaneous services, and international common carrier private lines. Second, the Circuit Capacity Reports require providers of international telecommunications services to file annual reports identifying the submarine cable, satellite, and terrestrial capacity between the United States and foreign points. The Commission believes these reports are no longer necessary in their current form. The Commission proposes to eliminate the annual Traffic and Revenue Reports altogether, and seeks comment on whether there are ways to further streamline the Circuit Capacity Reports.

2. **Traffic and Revenue Reports.** Currently, any person or entity that holds an international section 214 authorization to provide International Telecommunications Services (ITS) and/or any person or entity that is engaged in the provision of Interconnected Voice over Internet Protocol (VoIP) Services Connected to the Public Switched Telephone Network (PSTN) between the United States and any foreign point (together, Filing Entities) must file an annual Traffic and Revenue Report. ITS refers to telecommunications service between the United States and a foreign point. Interconnected VoIP Service Connected to the PSTN refers to service between the United States and any foreign point that: (1) enables real-time, two-way voice communications; (2) requires a broadband connection from the user's location; (3) requires Internet Protocol-compatible customer premise equipment; and (4) permits users generally to receive calls that originate on the PSTN or to terminate calls to the PSTN. Filing Manual for section 43.62 Annual Reports (IB Feb. 2016) (section 43.62 Filing Manual). The information

submitted for this annual report covers: (1) International Calling Service (ICS); (2) International Private Line Service; and (3) International Miscellaneous Services. ICS is defined as international message telephone service (IMTS) and Interconnected VoIP Connected to the PSTN, including International Call Completion Service for IMTS or Interconnected VoIP Connected to the PSTN. IMTS consists of telecommunications services (including voice and low-speed dial-up data) provided over the public switched networks of U.S. international carriers. International Private Line Service is defined as Private Line Service between the United States and a foreign point. Private Line Service refers to making available to a customer on a common carrier basis a circuit for a specified period of time for the customer's exclusive use. International Miscellaneous Service refers to any international telecommunications service other than ICS and International Private Line Service. Section 43.62 Filing Manual. Each person or entity that holds an international section 214 authorization, whether or not it provided any ITS during the preceding calendar year, must file at least a registration form and services checklist indicating whether it provided international service the previous year. Filing Entities that only had \$5 million or less in ICS resale revenues need only file the registration form and services checklist. Filing Entities report information on International Miscellaneous Services for which they had \$5 million or more in revenue.

3. Historically, the primary role of the international Traffic and Revenue Reports was to monitor settlement rates. The reports were important in the development and enforcement of the Commission's benchmark policy, requiring international settlement rates on particular routes to fall below competitive benchmarks. International Settlement Rates, IB Docket No. 96-261, Report and Order, 62 FR 45758 (1997) (Benchmarks Order). As the international telecommunications sector has liberalized and competition has grown, the Commission has determined that most routes were competitive based, in large part, on the Traffic and Revenue Reports; data from these reports thus allowed the Commission to end its International Settlements Policy. See International Settlements

Policy Reform et al., IB Docket Nos. 11-80, et al., Report and Order, 78 FR 11109 (2013); International Settlements Policy Reform; International Settlement Rates, IB Docket Nos. 02-324, 96-261, First Report and Order, 69 FR 23151 (2004).

4. **Circuit Capacity Reports.** The Circuit Capacity Reports help the Commission understand the U.S.-international transport markets. The Commission receives two types of data regarding submarine cables: (1) submarine cable operators report the available and planned capacity of their submarine cable systems and (2) common carriers and submarine cable licensees report the capacity that they own or lease on a submarine cable. Submarine cable landing licensees are required to file available and planned capacity information for each cable system as of December 31 of the reporting period. Any U.S. international common carrier or cable landing licensee that owned or leased capacity on a submarine cable between the United States and any foreign point on December 31 of the reporting period is required to file capacity amounts for the following categories: (1) owned capacity; (2) net indefeasible rights-of-use (IRUs); (3) net inter-carrier leaseholds (ICLs); (4) net capacity held (i.e., the total of categories (1) through (3)); (5) activated capacity; and (6) non-activated capacity. Section 43.62 Filing Manual. The Commission also receives world total circuit data for terrestrial and satellite facilities. Each facilities-based common carrier is required to file a report showing its active common carrier terrestrial or satellite circuits between the United States and any foreign point as of December 31 of the preceding calendar year. The terrestrial and satellite circuits are reported in world-total counts of 64 kilobits per second (kbps) circuit units. In addition, non-common carrier satellite operators are required to report a world-total count of circuits used by themselves or their affiliates, or sold or leased to any customer as of December 31 of the reporting period, other than to an international common carrier authorized by the Commission to provide U.S. international common carrier services.

5. The Circuit Capacity Reports show the level of facilities-based competition for the major U.S.-international routes, and can help policy-makers and industry determine whether there is and will

be sufficient capacity to handle demand for telecommunications on a specific U.S.-international route. The Commission has used the data in analyzing proposed transactions in the U.S.-international services markets, particularly with respect to whether a transaction would affect facilities-based competition on any particular U.S.-international route(s). The data are used to determine whether entry by foreign companies will benefit or adversely affect competition.

6. The Commission also uses the data for national security and public safety purposes, to ensure that U.S. international telecommunications are safe from disruption, and to provide information about key routes and whether there are alternative cables or satellite facilities available to provide communications to specific locations. The data provide information on ownership and control of submarine cable capacity, to help national security agencies assess the safety and integrity of U.S.-international telecommunications infrastructure. The Commission also uses the terrestrial, satellite, and submarine cable capacity data to administer the annual regulatory fees established in section 9 of the Communications Act of 1934, as amended (the Act). 47 U.S.C. 159.

7. **Biennial Review.** On November 3, 2016, the Commission released a Public Notice seeking comment on the 2016 biennial review of our telecommunications regulations pursuant to section 11 of the Act. 47 U.S.C. 161; 31 FCC Rcd 12166 (2016). Several parties recommend that we further streamline or eliminate the reporting requirements in section 43.62 of the Commission's rules, and no party wrote in support of retaining these requirements.

8. **DISCUSSION.** After reviewing the record in this biennial review proceeding, and based on our own understanding of the competitive nature of the international services sector, we believe that the international traffic and revenue data collection is no longer necessary, and we propose to eliminate this reporting requirement. We instead believe that more targeted collections, in response to actual U.S. carrier complaints, may provide the Commission with all the information it needs.

9. In contrast, we believe that it might serve the public interest to retain the Circuit Capacity Reports. We thus explore whether, instead of eliminating these reports, there are ways we could streamline or modify this data collection while continuing to meet our statutory obligations.

10. **Traffic and Revenue Reports.** We propose to eliminate the current international Traffic and Revenue Reports requirement. We believe that the costs of this data collection—which are significant both for filers and for the Commission—now exceed the benefits of the information. We seek comment on what effect elimination of this reporting requirement will have on U.S. consumers and U.S. carriers, and whether there may be less burdensome ways for the Commission to obtain data in order to fulfill its statutory obligations and protect U.S. interests.

11. The international traffic and revenue reporting requirement appears to place a significant burden on the filing entities and the Commission. Although the Commission does not have firm numbers on the costs to industry to prepare and submit the reports, we have developed estimates of the burdens. These estimates have been derived by applying the number of traffic and revenue filings in 2016 to the burden estimates in the Paperwork Reduction Act review process for the annual Traffic and Revenue Reports and Circuit Capacity Reports. In 2016, 1,888 entities filed information regarding their 2015 international traffic and revenue. Of those, 1,822 filed only a registration form and did not file any data because they either did not have any international revenues in 2015, or only had less than \$5 million in ICS resale revenue. Sixty-six filed data for ICS facilities-based services, International Private Line Services and/or International Miscellaneous Services, and 47 of the 66 filed revisions. In 2014, the Commission estimated that filers spend one hour preparing and filing the registration form; two hours preparing and filing world total ICS resale data; 150 hours preparing and submitting route-by-route data for facilities-based ICS and or international private lines; and 50 hours preparing and filing revised data. In total, we estimate that industry spent 14,770 hours preparing and submitting the data for the 2015 annual Traffic and Revenue Reports. We estimate that Commission

staff will spend 2,218 hours reviewing and publishing the data at a total cost of at least \$112,076. We seek comment on these estimates and ask commenters to provide us with the cost of preparing and submitting the Traffic and Revenue Reports. In particular, we seek comment on the actual time spent to produce the data and ask commenters to provide us with an average wage rate. AT&T Services Inc., for example, reported that nearly 300 hours were required to prepare its Traffic and Revenue Report. We also seek comment on the complexity involved in providing data to the Commission. Do commenters have the information required for filing readily available from their internal systems? Do commenters need to maintain redundant systems or perform complex analysis on their internal data in order to submit their reports? What impact, if any, does the complexity of analysis required have on the reliability of the data submitted?

12. Given the increasing level of competition on most U.S.-international routes, we believe that the benefits of the Traffic and Revenue Reports have so diminished that they no longer outweigh the costs. In the last 20 years, since the implementation of the World Trade Organization (WTO) Basic Telecom Agreement and the establishment of the Commission's benchmarks settlements policy, the international telecommunications sector has become much more competitive on both the U.S. and foreign ends, as government regulations in the United States and abroad were relaxed, and enabled entry. As a result, both U.S.-international average settlement rates and average IMTS revenue per minute have dropped dramatically. IMTS is defined as the provision of message telephone service (MTS) between the United States and a foreign point. The term MTS refers to the transmission and reception of speech and low-speed dial-up data over the PSTN. Section 43.62 Filing Manual. Average settlement rates paid out by U.S. carriers have decreased from \$0.18 per minute in 2000 to \$0.03 per minute in 2014, an 83 percent drop. Average facilities ICS revenue per minute, which is a general measure of international calling prices, has decreased from \$0.47 per minute in 2000 to \$0.04 per minute in 2014, indicating a drop of 85 percent in the price to consumers for international calling.

13. Additionally, the data we collect may actually understate the competitiveness of the international market. Although we collect data from interconnected VoIP providers (354 interconnected VoIP providers filed Traffic and Revenue Reports in 2015), we do not mandate reporting from non-interconnected VoIP providers, many of whose services are free to the customer. This indicates that overall consumer rates for international voice traffic may be below those indicated by the reports. As use of those services continues to increase, it calls into question the continuing value of the overall traffic and revenue data, since such data reveal only a fraction of the overall picture of international communications, a fraction that is likely to grow smaller over time. To the extent information is available, we seek comment on what portion of international telecommunications services is provided by non-interconnected VoIP services, the projected future growth of those services, and their impact on the relevance and accuracy of our current Traffic and Revenue Reports.

14. Settlement rates to most foreign points are also well below the benchmark rate established for that country, indicating that competition has driven the rate closer to cost-based levels. Though some routes are still subject to the anti-competitive effects of foreign monopolist providers and government regulation, for the most part U.S.-international routes are competitive. In a recent presentation to the Expert Group on International Telecommunication Regulations, International Telecommunication Union (ITU), the United States noted that “[a]ccording to the ITU, a clear majority of countries in all six ITU regions have competitive markets covering elements that are essential to the provision of international telecommunication services – domestic fixed long-distance, mobile, leased lines, and international gateways. For example, according to ITU’s 2015 ICTEYE, a majority of countries have various levels of competitive markets in domestic and international long distance services and more than 75 percent of ITU Member States have competitive international gateways and leased line markets.” This is due to relaxed government regulations, entry by new carriers, entry by existing incumbents into other countries’ markets, technological developments that have enhanced ease of

entry, and, perhaps most significantly for the future, the development of VoIP-based alternatives to traditional international switched services, such as Skype, FaceTime, Viber, or WhatsApp. Attempts to raise settlement rates by a foreign carrier, cartel, or government can be countered by carriers using our benchmark complaint process, or by consumers switching to VoIP-based calling services, many of which are free. Although the traffic and revenue data have been useful for those times when we have investigated anticompetitive behavior on certain routes, these have been relatively infrequent in recent years, for example, on the U.S.-Fiji route (2013 to present), U.S.-Pakistan route (2013-2016), and U.S.-Tonga route (2009 to present). Moreover, we can and do request traffic and revenue information from carriers when a carrier complains of anticompetitive conduct by a foreign carrier or government on a specific route. The Commission has broad authority to investigate possible anti-competitive activities on U.S.-international routes.

15. In eliminating the Traffic and Revenue Reports, is there data and information that the Commission would not be able to obtain to address instances of anticompetitive conduct on a U.S.-international route that adversely affects U.S. consumers or U.S. carriers? How could the Commission ascertain which facilities-based carriers have termination arrangements on a particular U.S.-international route in the absence of reported traffic and revenue data? We seek comment on whether there are less burdensome alternatives for carriers to provide the Commission with information it needs to protect U.S. consumers and carriers. There are also international routes which are not fully competitive and on which the settlement rate is still above the benchmark rate. For example, according to 2014 data on calling to foreign fixed-line networks, there are 48 above-benchmark routes that constitute approximately 1 percent of total fixed minutes and 21 percent of total fixed U.S. settlement payouts worldwide. We seek comment on whether the Commission should continue to obtain information regarding above-benchmark rates. If so, what information should the Commission continue to require? In addition, for those commenters opposed to eliminating these reporting requirements, we

seek comment on how they can be further streamlined and whether the Commission should sunset some or all of the provisions. For instance, requiring only route-by-route data from facilities-based carriers and eliminating the filing requirement for resale, private line, and miscellaneous services would greatly reduce the overall industry burden and would exempt over 1,800 entities from filing Traffic and Revenue Reports. We seek comment on all the issues raised and solicit additional feedback on any issues we should consider with regard to eliminating the Traffic and Revenue Reports.

16. **Circuit Capacity Reports.** At this time, we believe that retaining the Circuit Capacity Reports might be warranted because the benefits appear to exceed the costs of collecting this data. We seek comment on our analysis and on ways to further streamline our requirements to minimize the burden on filers while ensuring the Commission receives the information it needs to meet its statutory responsibilities. We propose to delete section 43.62 of the Commission's rules, which contains both annual Traffic and Revenue Reports and the Circuit Capacity Reports, and place the Circuit Capacity Reports in section 43.82 of the Commission's rules.

17. We seek comment on the burden imposed by our circuit capacity reporting requirements. While the Commission does not have firm numbers on the costs to industry to prepare and submit the reports, we have developed estimates of the burdens. These estimates have been derived by applying the number of circuit capacity filings in 2016 to the burden estimates in the Paperwork Reduction Act review process for the annual Traffic and Revenue Reports and Circuit Capacity Reports. In 2016, 91 entities filed data regarding their circuits as of December 31, 2015. Thirty-five reports were filed for terrestrial and satellite world total circuits; 30 cable operator reports were filed; and 72 capacity holder reports were filed. In 2014, the Commission estimated that filers spend one hour preparing and filing the registration form; one hour preparing and filing world total terrestrial and/or satellite circuits; two hours preparing and submitting the cable operators report; and 10 hours preparing and filing the cable capacity holders report. In total, we estimate that industry spent 906

hours preparing and submitting the data for the 2015 annual Circuit Capacity Reports. We estimate that Commission staff will spend 372 hours reviewing and publishing the data at a total cost of \$22,280. We seek comment on these estimations and ask commenters to provide us with the cost of preparing and submitting the Circuit Capacity Reports. In particular, we seek comment on the actual time spent to produce the data and ask commenters to provide us with an average wage rate.

18. Although the value of the Circuit Capacity Reports is less than it once was with the advent of competition throughout the international marketplace, we believe the reports still retain significant value. For one, the Circuit Capacity Reports give the agency a clear understanding of which operators have deployed what facilities where—the prime information needed for any analysis of facilities-based competition. For another, the Circuit Capacity Reports are used by the Commission and the national security agencies to understand how to protect and secure this critical international infrastructure. For yet another, the Commission relies on these reports to carry out its statutory obligation to assess regulatory fees on international bearer circuits. We believe that these benefits outweigh the costs of this information collection. We seek comment on this analysis, and how the benefits of the Circuit Capacity Reports can best be quantified.

19. We also seek comment on ways to streamline or improve our reporting requirements. Have there have been changes in the international transport markets over the past few years that necessitate a reexamination of the type of information we collect, especially any changes in the submarine cable markets? How should we modify the collection in a manner that would still allow the Commission to meet its obligations? How would the cost benefit analysis change with the proposed modifications? Should we collect different information that would minimize burdens on filers while still providing value to the public, industry, and the Commission? We recognize that the data are used to assess regulatory fees, and seek comment on whether we should require filers to submit, for example, the data at the same time as the fee, rather than as a prelude to the fee. What other ways can the

Commission minimize burdens on filers? What, if any, alternative or substitutes for the circuit capacity data, in particular the submarine cable data, are available from commercial sources? If data are available from commercial sources, are there limitations on the Commission's use of that data? We seek comment on this and whether there are alternative lower cost means of acquiring circuit capacity data. We also seek comment on whether we could eliminate the Circuit Capacity Reports, and if so how the Commission could continue to perform the functions that the circuit data enable.

20. We also seek input on two issues that have become apparent with the most recent filing of Circuit Capacity Reports. First, for certain individual cables, we have observed a discrepancy between the capacity reported on the cable operators report and the capacity reported on the cable capacity holders report. For example, occasionally, we find that the cable capacity holders report has higher capacity numbers than the cable operator report for the same cable. In those instances, Commission staff will contact the filers concerning the inconsistencies. What is the cause of such inconsistencies, and how can we best address them?

21. Second, on the cable capacity holders report, filers are asked to report capacity acquired and relinquished via indefeasible rights-of-use (IRUs) or inter-carrier leaseholds (ICLs) only in those cases where such transactions are with another reporting entity. Thus, for each entry of capacity acquired by IRU or ICL, there should be a corresponding entry of capacity relinquished; however, this has generally not been the case. Should we address this by clarifying the filing instructions? Or should we change the instructions so that all IRU and ICL transactions must be reported, regardless of whether the other party is also a reporting party?

22. As part of the changes adopted in 2013, filers are allowed to check a box on the registration form to request confidentiality for their data. In the past, the Commission has published information on the current and planned capacity of individual U.S.-international submarine cables.

Several cable operators have recently requested confidential treatment for their cable operator data. To minimize burdens, we seek comment on whether, for example, in the future the Commission should publish such data on a consolidated regional (and not cable-specific) basis. We seek comment on whether releasing only regional data to the public, without identifying individual cable operators, will affect the usefulness of the Circuit Capacity Reports, and whether this practice would address concerns operators have regarding the confidentiality of data submitted in such reports. We note that the Commission would still have the information on a cable-by-cable basis.

23. Finally, we propose a change to the confidentiality rule for circuit capacity to clarify that requests for confidential treatment will be consistent with Section 0.459 of the Commission's rules, and seek comment on this proposal.

24. **Ex Parte Rules.** The proceeding this NPRM initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's ex parte rules. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with Section 1.1206(b) of the Commission's rules. In

proceedings governed by Section 1.49(f) of the Commission's rules or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

25. **Paperwork Reduction Act.** This document contains proposed new and modified information collection requirements. The Commission, as a part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. Public and agency comments are due **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) way to further reduce the information collection burden on small business concerns with fewer than 25 employees. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4), we seek specific comment on how we might "further reduce the information collection burden for small business concerns with fewer than 25 employees."

26. **Statement of Authority.** The proposed action is authorized under Sections 1, 4(i), 4(j), 11, 201-205, 214, 219-220, 303(r), 309, and 403 of the Communications Act as amended, 47 U.S.C. 151, 154(i), 154(j), 161, 201-205, 214, 219-220, 303(r), 309, and 403, and the Cable Landing License Act of

1921, 47 U.S.C. 34-39, and 3 U.S.C. 301.

Initial Regulatory Flexibility Act Analysis

27. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this Notice of Proposed Rule Making (NPRM). We request written public comments on this IRFA. Commenters must identify their comments as responses to the IRFA and must file the comments by the deadlines provided in this NPRM. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

28. The Commission initiated this NPRM to assess the federal need for the international reporting requirements set forth in section 43.62 of the Commission's rules. On November 3, 2016, the Commission released a Public Notice seeking comment on the 2016 biennial review of our telecommunications regulations pursuant to section 11 of the Communications Act of 1934, as amended (the Act). Section 11 requires the Commission to (1) review biennially its regulations "that apply to the operations or activities of any provider of telecommunications service," and (2) "determine whether any such regulation is no longer necessary in the public interest as the result of meaningful economic competition between providers of such service." Section 11 directs the Commission to repeal or modify any regulation that it finds are no longer in the public interest. While the Commission streamlined and modernized the Part 43 international reporting requirements in 2013, several parties recommend that we further streamline or eliminate these rules.

29. The objectives of this proceeding are to eliminate, further streamline, or modify the current traffic and revenue reporting requirements and further streamline or modify circuit capacity reporting requirements that apply to carriers providing international services pursuant to section 43.62 of the Commission's rules. Specifically, the Commission proposes to eliminate the annual Traffic and

Revenue Reports, and seeks comment on ways to further streamline the annual Circuit Capacity Reports. After reviewing the record in this biennial review proceeding, and based on our own understanding of the competitive nature of the international services sector, we believe that the international traffic and revenue data collection is no longer necessary, and we propose to eliminate this reporting requirement. We recognize that there may be occasions when we need international services market information, and seek comment on how to obtain this information in the most cost effective and least burdensome way. With respect to the annual Circuit Capacity Reports, we believe they may warrant retention, and do not propose their elimination. We do, however, explore whether there are ways we could further streamline or modify this data collection while meeting our statutory obligations.

30. Currently, section 43.62(b) of the Commission's rules requires providers of international services to report annually their traffic and revenue for international voice services, international miscellaneous services, and international common carrier private lines. Section 43.62(a) of the Commission's rules requires providers of international services to report annually submarine cable, satellite, and terrestrial capacity between the United States and foreign points.

31. The RFA directs agencies to provide a description of, and, where feasible, an estimate of, the number of small entities that may be affected by proposed rules, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. Pursuant to the RFA, the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register." A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria

established by the Small Business Administration (SBA).

32. The proposals in the NPRM apply to entities providing international common carrier services pursuant to section 214 of the Act; entities providing international wireless common carrier services under section 309 of the Act; entities providing common carrier satellite services under section 309 of the Act; and entities licensed to construct and operate submarine cables under the Cable Landing License Act. The Commission has not developed a small business size standard directed specifically toward these entities. As described below, such entities fit within larger categories for which the SBA has developed size standards.

33. The proposals in the NPRM apply to a mixture of both large and small entities. The Commission has not developed a small business size standard directed specifically toward these entities. However, as described below, these entities fit into larger categories for which the SBA has developed size standards that provide these facilities or services.

1. Facilities-based Carriers.
2. IMTS Resale Providers.
3. Wireless Carriers and Service Providers.
4. Wireless Telecommunications Carriers (except Satellite).
5. Wireless Communications Services.
6. Providers of Interconnected VoIP services.
7. Spot Market Operators.
8. Providers of International Telecommunications Transmission Facilities.
9. Satellite Telecommunications Providers.

10. Operators of Non-Common Carrier Undersea Cable Systems.

11. Incumbent Local Exchange Carriers.

34. The NPRM proposes a number of rule changes that would affect reporting, recordkeeping and other compliance requirements for entities providing international common carrier services pursuant to section 214 of the Communications Act; entities providing international wireless common carrier services under Section 309 of the Act; entities providing common carrier satellite services under section 309 of the Act; and entities licensed to construct and operate submarine cables under the Cable Landing License Act. The NPRM proposes to eliminate, further streamline, or modify the current international reporting requirements to reduce the burdens for both small and large carriers. Specifically, the NPRM proposes to eliminate the annual Traffic and Revenue Reports, and seeks comment on ways to further streamline the Circuit Capacity Reports. As a result, the proposals in the NPRM will be financially beneficial and not impose any significant economic burdens on small carriers.

35. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): “(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rules for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.”

36. In this NPRM, the proposed changes in the international reporting requirements would lessen the burden on carriers, including small entities. We propose to eliminate the annual Traffic and Revenue Reports, and seek comment on ways to further streamline the Circuit Capacity Reports. After

reviewing the record in this biennial review proceeding, and based on our own understanding of the competitive nature of the international services sector, we believe that the international traffic and revenue data collection is no longer necessary, and we propose to eliminate this reporting requirement. We recognize that there may be occasions when we need international services market information, and seek comment on how to obtain this information in the most cost effective and least burdensome way. We are also considering alternatives that would provide the Commission with important information for fulfilling its statutory obligations but would reduce the burdens on small businesses. With respect to the annual Circuit Capacity Reports, we believe they may warrant retention, and do not propose their elimination. We do, however, explore whether there are ways we could further streamline or modify this data collection while meeting our statutory obligations.

37. The NPRM seeks comment from all interested parties. The Commission is aware that some of the proposals under consideration may impact small entities. Small entities are encouraged to bring to the Commission's attention any specific concerns they may have with the proposals outlined in the NPRM.

38. The Commission expects to consider the economic impact on small entities, as identified in comments filed in response to the NPRM, in reaching its final conclusions and taking action in this proceeding.

List of Subjects in

47 CFR Part 43

Communications common carriers, Reporting and recordkeeping requirements, Telephone

47 CFR Part 63

Communications common carriers, Reporting and recordkeeping requirements, Telephone

Katura Jackson,

Federal Register Liaison Officer.

Office of the Secretary

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 43 and 63 as follows:

PART 43 – REPORTS OF COMMUNICATION COMMON CARRIERS, PROVIDERS OF INTERNATIONAL SERVICES AND CERTAIN AFFILIATES

1. The authority citation for Part 43 is revised to read as follows:

Authority: 47 U.S.C. 154; Telecommunications Act of 1996; Pub. Law 104-104, sec. 402(b)(2)(B), (c), 110 Stat. 56 (1996) as amended unless otherwise noted. 47 U.S.C. 211, 219, 220, as amended; Cable Landing License Act of 1921, 47 U.S.C. 34-39.

§ 43.62 [Removed and Reserved]

2. Section 43.62 is removed and reserved.
3. Add § 43.82 to read as follows:

§ 43.82 Circuit Capacity Reports.

(a) Not later than March 31 of each year:

(1) Satellite and Terrestrial Circuits. Each facilities-based common carrier shall file a report showing its active common carrier circuits between the United States and any foreign point as of December 31 of the preceding calendar year in any terrestrial or satellite facility for the provision of service to an end user or resale carrier, which includes active circuits used by themselves or their affiliates. Each non-common carrier satellite licensee shall file a report showing its active circuits between the United States and any foreign point as of December 31 of the preceding calendar year sold or leased to any customer,

including themselves or their affiliates, other than a carrier authorized by the Commission to provide U.S. international common carrier services.

(2) International Submarine Cable Capacity. (i) The licensee(s) of a submarine cable between the United States and any foreign point shall file a report showing the capacity of the submarine cable as of December 31 of the preceding calendar year. The licensee(s) shall also file a report showing the planned capacity of the submarine cable (the intended capacity of the submarine cable two years from December 31 of the preceding calendar year). Only one cable landing licensee shall file the capacity data for each submarine cable. For cables with more than one licensee, the licensees shall determine which licensee will file the reports.

(ii) Each cable landing licensee and common carrier shall file a report showing its capacity on submarine cables between the United States and any foreign point as of December 31 of the preceding calendar year.

NOTE TO PARAGRAPH (a): United States is defined in Section 3 of the Communications Act of 1934, as amended, 47 U.S.C. 153.

(b) A Registration Form, containing information about the filer, such as address, phone number, email address, etc., shall be filed with each report. The Registration Form shall include a certification enabling the filer to check a box to indicate that the filer requests that its circuit capacity data be treated as confidential consistent with Section 0.459(b) of the Commission's rules.

(c) Filing Manual. Authority is delegated to the Chief, International Bureau to prepare instructions and reporting requirements for the filing of these reports prepared and published as a Filing Manual. The information required under this Section shall be furnished in conformance with the instructions and reporting requirements in the Filing Manual.

PART 63 – EXTENSION OF LINES, NEW LINES AND DISCONTINUANCE, REDUCTION, OUTAGE AND
IMPAIRMENT OF SERVICE BY COMMON CARRIERS; AND GRANTS OF RECOGNIZED PRIVATE OPERATING
AGENCY STATUS

4. The authority citation for part 63 continues to read as follows:

Authority: Sections 1, 4(i), 4(j), 10, 11, 201-205, 214, 218, 403 and 651 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 160, 201-205, 214, 218, 403, and 571, unless otherwise noted.

5. Amend § 63.10 by revising paragraph (c)(2) to read as follows:

§ 63.10 Regulatory classification of U.S. international carriers.

* * * * *

(c) * * *

- (2) File quarterly reports on traffic and revenue within 90 days from the end of each calendar quarter.

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6. Amend § 63.21 by removing and reserving paragraph (d) to read as follows:

§ 63.21 Conditions applicable to all international Section 214 authorizations.

(d) Reserved.

7. Amend § 63.22 by revising paragraph (e) to read as follows:

§63.22 Facilities-based international common carriers.

* * * * *

(e) The carrier shall file annual international circuit capacity reports as required by § 43.82 of this chapter.

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